

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA**

NANCY ANN BURKE, as Personal Representative for the Estate of DAVID K. BURKE, and NANCY ANN BURKE, individually, and RUSSELL DAVID BURKE, and JEFFREY JOHN BURKE, and KATHERINE ELIZABETH BURKE, and VICTORIA JANE BURKE,

Plaintiffs,

v.

WINNEBAGO INDUSTRIES, INC., LIPPERT COMPONENTS, INC., and LCI INDUSTRIES,

Defendants.

LIPPERT COMPONENTS, INC., and LCI INDUSTRIES,

Defendants and Third-Party Plaintiffs,

v.

ENGINEERED SOLUTIONS, L.P. and ENERPAC TOOL GROUP CORP.,

Third-Party Defendants.

Civil Action No.: 21-cv-3020

**PLAINTIFFS' MOTION TO VOLUNTARILY DISMISS DEFENDANT WINNEBAGO
INDUSTRIES, INC., PURSUANT TO FED. R. CIV. P. 41(2)**

COME NOW the plaintiffs, by and through their counsel of record, and, pursuant to Fed. R. Civ. P. 41(2), hereby move for voluntary dismissal of Defendant Winnebago Industries, Inc. (hereinafter "Winnebago"), with prejudice, or as the Court deems proper, retaining any and all claims they have, or may have, against Defendants, Lippert Components, Inc. and LCI Industries,

and Third-Party Defendants, Engineered Solutions, L.P. (hereinafter “ESLP”) and Enerpac Tool Group Corp. (hereinafter “Enerpac”), and any and all other current or unknown parties before this Court, in support of which they state:

1. This Motion to Voluntarily Dismiss Defendant Winnebago is made pursuant to Fed. R. Civ. P. 41(2).

2. Before filing this Motion, Plaintiffs’ counsel did confer with opposing counsel concerning whether or not they would object to this Motion as presented and, at this time, Plaintiffs’ counsel is unaware if Defendants will lodge any objections to the Motion.

3. Pursuant to Local Rule 7(d), Plaintiffs simultaneously file with this Motion, a Brief in Support of this Motion.

4. Plaintiffs intend this Motion to Voluntarily Dismiss Winnebago, and does not dismiss any other current parties to this lawsuit, or any which may be added later, other than Winnebago.

5. Plaintiffs intend to file a Motion to Amend their Complaint in the immediate future to make a direct claim against Third-Party Defendants, ESLP and Enerpac.

6. Since the failed rivet has yet to be analysed for metallurgical content, it is unknown if Plaintiffs, Lippert, ESLP or Enerpac will seek to join the manufacturer of the rivet which failed or any other Defendants.

7. Nevertheless, Plaintiffs voluntarily seek to dismiss Defendant Winnebago, and have no objection to the Court making the dismissal with prejudice.

WHEREFORE, Plaintiffs ask the Court for an Order voluntarily dismissing Defendant Winnebago as the Court sees proper under the circumstances, and Plaintiffs have no objection to such dismissal being entered with prejudice based on the record in this matter.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on *Wednesday, December 07, 2022*, I electronically filed the foregoing with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified below via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronic Notice of Electronic Filing:

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